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October 30, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Via hand delivery

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554

Re: CC Docket No. 00-176

Dear Ms. Salas:

On October 30, 2000, Jason Oxman met with Rebecca Beynon, Legal Advisor to Commissioner Furchtgott-Roth, to discuss Verizon's 271 application for Massachusetts. He discussed Covad's opposition to granting 271 authority to Verizon in Massachusetts, as more fully set out in the attached presentation.

Very truly yours,

Florence M. Grasso

cc: Rebecca Beynon
Susan Pié, Common Carrier Bureau

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**Presentation of Covad
Communications Company on
Section 271 Application of
Verizon - Massachusetts**

October 30, 2000

DSL Is Just as Important as Voice in the 271 Calculus

- DSL is one of the fastest growing segments of the market, and the most important barometer of loop performance
 - Most Facilities-Based Voice Competition Occurs over Hot Cut Loops, Not New Loops (as with DSL)
 - UNE-P Loops Do Not Involve Central Office Wiring or Field Work as Do xDSL Loops
- Unlike voice carriers, DSL providers actively target the residential market
- The Decision Granting Bell Atlantic – New York 271 Authority While Disregarding DSL Performance Was an Anomaly, As that Decision and the Southwestern Bell 271 Decision Make Clear

DOJ Recommends Rejection

- “The Department has concluded that Verizon has not yet demonstrated (1) that it provides nondiscriminatory access to DSL loops, and (2) that suitable performance measures with unambiguous benchmarks are in place to deter backsliding. The Commission should not approve this application without such a demonstration.” DOJ Evaluation at 2-3.
- “To the extent that the Massachusetts performance measures do not accurately indicate whether Verizon is providing discriminatory or nondiscriminatory access to DSL loops, those deficiencies in the performance measures will substantially increase the difficulties of detecting and providing remedies for any discriminatory performance that may arise in the future.” DOJ Evaluation at 14.

DOJ concludes that Verizon's own Data is not reliable

- KPMG did not test DSL metrics:
 - “Although KPMG reviewed other Verizon performance metrics, it did not test the DSL metrics because they were implemented by Verizon after the initial testing period.” DOJ Evaluation at 15.
- Verizon refuses to permit CLECs to independently check Verizon's unilateral performance reporting.
 - “Verizon has not provided individual CLECs reports that show its performance on their DSL orders. We are not aware of any reason for this omission, and in fact Verizon provides such individual performance reports in New York.” DOJ Evaluation at 15.

The Commission set the xDSL rules in the SWBT TX 271

- Commission examined only three aspects of SWBT's xDSL loop performance
 - (1) Missed installation due dates
 - On time loop delivery: SWBT retail 93.5%/CLEC 92.3% (SWBT 271 Order at para. 297)
 - Compare: VZ retail 83%/CLEC 51% (PR 3-10)
 - (2) Loop Quality
 - Trouble w/in 30 days: SWBT retail and CLEC both about 4% (SWBT 271 Order at para. 300)
 - Compare: VZ retail 3%/CLEC 8.5% (PR 6-01)
 - (3) Maintenance and Repair
 - Average time to repair: SWBT retail 24.8 hours/CLEC 3.22 hours (SWBT 271 Order at para. 304 n. 846)
 - Compare: VZ retail 25 hours/CLEC 45 hours (MR 4-01)

Verizon's own data shows it is out of parity,
so it tries to explain away the data . . .

- On-time loop performance is only 51%
 - VZ excuse: CLECs are using manual, instead of automatic, loop qualification, which pushes loop due date out an extra 3 days
 - Covad response: we qualify loops manually less than 15% of the time.
 - Covad response: VZ admits that at least 44% of the loops VZ claims are “complete” are found to be non-working loops within 30 days. Performance is even worse than the 51% shown.

xDSL Loop Performance Is Out of Parity

- Verizon Has Steadily Reduced the *Average Interval Completed* for Its Own Dispatched 2-Wire xDSL Loops, But Has Hardly Improved Performance on that Metric for CLECs (PR 2-02)
 - Verizon reduced the average interval completed for its own services from 12.14 days in April of this year to 5.93 days in July
 - Verizon's showed much less improvement for CLECs: the average interval offered to CLECs of 7.80 days in April was still 7.14 days in July
 - Thus, the trend of the data shows Verizon to be moving even further out of parity
- Verizon mistakenly claims that “retail DSL orders are not a good analogue for unbundled DSL loops” because the latter require a dispatch -- VZ agreed to the retail analogue in adopting these measures.

Repair time is almost twice as long for CLECs as it is for Verizon's own customers (45 hours for CLECs v. 25 hours for VZ customers (MR 4-01)), and 44% of DSL loops Verizon delivers are found not to work within 30 days - Part 1

- Verizon excuse #1: no access in about 59% percent of appointments
- Covad response: These “no access” issues are already excluded from the metric. More importantly, Verizon refuses to fix the no access problem, which requires collaborative solutions.
 - example: VZ will only give appointment windows to CLEC customers of “all day,” while it gives its own customers a window of a few hours.
 - example: Verizon will show up after 5pm for a business install when the business is closed.
- Solution: Verizon will only work with Covad to fix the problem if the FCC tells Verizon to before approving its Mass. 271 application.

Repair time is almost twice as long for CLECs as it is for Verizon's own customers (45 hours for CLECs v. 25 hours for VZ customers (MR 4-01)), and 44% of DSL loops Verizon delivers are found not to work within 30 days - Part 2

- Verizon excuse #2: Covad is accepting loops that have been “acceptance tested” as good and then deciding the loops don’t work for the particular services Covad wants to offer.
- Covad response: The 44% of loops delivered that don’t work are non-functional for any service -- voice or data -- they simply do not work.
- Covad response: Acceptance testing is a sporadic process with no way to verify where on the loop Verizon’s technician is testing. If the test is done in the wrong place, a loop will be “accepted” when in reality it doesn’t work.
- Solution: The Commission must instruct Verizon to fix the acceptance testing process so it works before approving the Mass. 271 application.

DOJ Rejects Verizon Excuses

- “However, it is difficult or impossible to verify Verizon’s reformulated performance calculations and analysis because Verizon has not provided the data underlying its reformulated performance calculations and because Verizon has not given the CLECs their individual performance reports, which would be necessary to permit CLECs to verify or refute Verizon’s restated performance.” DOJ Eval. At 11.
- “The Department has not been able to determine whether Verizon’s objections to the performance measures are valid or whether Verizon is providing nondiscriminatory performance even under its suggested alternative methods of measuring performance. We believe, however, that it is appropriate to insist that Verizon satisfy its burden of proof on these issues.” DOJ Evaluation at 13.

Line Sharing - simply finishing splitter installation does not mean Verizon is “operationally ready” to offer linesharing in Mass.

- Verizon Originally Committed to Completing the Installation of Splitters in MA for Covad on July 13, 2000
 - Verizon finally finished splitter installation in Mass. last week, four months after FCC deadline. Covad ordered splitters that sat in a warehouse for months while Verizon refused to install them.
 - Covad still cannot order linesharing in Mass., because Verizon will not have its linesharing OSS ready until at least 1Q 2001.
 - No linesharing metrics are in place in Mass, and FCC has no viable linesharing data to examine. KPMG did not test linesharing
- “Because Verizon has not provided performance reports regarding the provisioning of line sharing orders, it is extremely difficult to resolve these disputes now, and it will be as difficult, if not more difficult, to effectively monitor Verizon’s performance in the future.” DOJ Evaluation at 16.